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## V. DISCUSSION (U)

### A. Why are Lawful and Authorized Activities Nevertheless Called "Inappropriate"? (U)

(U) The Draft Report concludes that the activities reviewed in this Project were lawful and authorized (pages ii, 4, 13). It states that within the authority conferred by Title X, Section 113 of the United States Code, "the Secretary owns the DoD Directives governing (among others) Intelligence and Policy, and as long as Executive Orders or other legal statutes are not violated, he has the latitude to interchange roles and responsibilities" (page 34).

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(U) Despite these conclusions, the Draft Report asserts that these same activities were "inappropriate," in the OIG's opinion, because the "OUSD(P)" "products did not clearly show the variance with the consensus of the Intelligence Community and were, in some cases, shown as intelligence products" (page 4).

(U) It is somewhat difficult to understand how activities that admittedly were lawful and authorized (in this case by either the Secretary or the Deputy Secretary of Defense) could nevertheless be characterized as "inappropriate" -- particularly considering OIG's concession that the Secretary (and by logical extension the Deputy) may interchange roles and responsibilities within DoD provided no statutes or executive orders are violated. The Draft Report points to no laws, executive orders, DoD directives, DoD instructions or DoD publications that provide any guidelines for what is "appropriate" in this case, except for the Secretary's broad mandate under Title X. That mandate leads to a conclusion that the activities reviewed were "appropriate."

(U) The Draft Report is spare of analysis on why its reaches the opposite conclusion. The argument seems to be as follows:

- (U) DIA detailees to OUSD(P) reviewed the same intelligence information that the IC had used when drawing IC judgments about links between Iraq and al-Qaida. This was appropriate for policy formulation (page 12).
- (U) Appropriate policy formulation, however, "evolved into Intelligence Analysis and eventually culminated in the Intelligence Activity of Intelligence Production with the creation of alternate intelligence assessments and dissemination when the briefing was provided to the Secretary of Defense, DCI, and members of the Office of the Vice President and National Security Counsel" (page 12).
- (U) This supposed "evolution" was inappropriate because it led to performance by "OUSD(P)" of "intelligence functions that are the responsibility of Defense Intelligence" (page 14), the work products "did not clearly show the variance with

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the consensus of the Intelligence Community" (page 4), and the work products "were, in some cases, shown as intelligence products" (page 4).

- (U) If "OUSD(P)" did not consider the IC's existing "judgment" about Iraq and al-Qaida to be correct, "OUSD(P)" should have used "existing procedures" to get a second IC "judgment" by requesting "from the Defense Intelligence community an Alternative Judgment" on that subject (pages 13-14) – instead of participating in an OSD critique of the existing IC judgment as directed by the DSD. Such "existing procedures" are said to be found in two internal DIA policies cited in the Draft Report (DI Policy Nos. 004 and 005).

(U) It is apparent from the above summary that the Draft Report's conclusions about "inappropriate" activities rest heavily on internal DIA policies dealing with alternative IC assessments and judgments, as well as Intelligence Community concepts such as "Intelligence Activities," "Intelligence Production," "Intelligence Analysis," and "intelligence assessments." An examination of the DIA policies and relevant IC concepts shows that they do not apply to the activities reviewed here. Thus the assertion that the activities were "inappropriate" cannot withstand analysis.

(U) Before turning to the analytical errors in the Draft Report, however, we respectfully point out that the specific reasons on which the Draft Report rests its finding of "inappropriateness" do not bear scrutiny.

(U) First, the Draft Report claims that the work products were inappropriate because they "did not clearly show the variance with the consensus of the Intelligence Community." This fundamentally mischaracterizes the purpose and nature of the work. The central purpose of these activities was to look critically at existing IC work and offer a different way of understanding the IC information. Each version of the draft briefing made this clear. The senior decision-makers briefed on this work (one of whom was the DCI himself) did not need to be told that it was at variance with the IC in some respects; that was inescapably obvious. There are no facts to suggest that any of them drew any conclusions or made any decisions whatsoever solely on the basis of the draft briefing, without taking IC views into consideration.<sup>52</sup>

(U) Furthermore, there was no requirement to specify in a draft work product, not offered as a proposed action item, how it might vary from IC views. The situation would

<sup>52</sup> (U) It was not the place of OUSD(P) in any event to articulate what the IC "consensus" was, which would have been the first step in "clearly show[ing] the variance" as the Draft Report asserts should have been done. It was up to the IC to articulate its consensus, if it had one. The Draft Report itself shows the pitfalls of trying to articulate an "IC consensus" for the IC. The Draft Report purports to describe such a consensus but utterly fails to mention the DCI's vetted, cleared statements to Congress on the Iraq-al-Qaida relationship. Those statements do not support the Draft Report's characterization of the IC "consensus."

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have been different if the draft briefing were put forward in support of some proposed action or decision, for example, a proposal that the President make a speech to the Nation describing a relationship between Iraq and al-Qaida. In such a case, the matter would have been discussed, at the least, by the Deputies Committee. All interested agencies would have been asked to provide their views, in particular their comments on the draft briefing and any other material offered in support of or against the proposed speech. The IC would have had ample opportunity to articulate how its views did or did not vary from the draft briefing. There would have been no need for "OUSD(P)" to do that; indeed, the IC would no doubt have objected strenuously to the idea of having another agency describe how its views might vary from those depicted in the draft briefing. Obviously, nothing of the sort happened here.

(U) Second, the Draft Report asserts that the work was "inappropriate" because some of it was "shown as intelligence products." There are no facts whatsoever to support this statement. The Draft Report only gives one example, the July 25, 2002 internal staff memo (done in preparation for the draft briefing), discussed at length in Part IV above. That memo argued that the IC had sufficient information to make an intelligence finding that Iraq had been "complicit in supporting al-Qaida terrorist activities." The Draft Report mischaracterizes this memo as an "OUSD(P)" intelligence assessment. In fact it was nothing more than a staff member's opinion that the IC should make an intelligence finding.

(U) Third, the Draft Report considers the work reviewed inappropriate because it amounted to "intelligence functions that are the responsibility of Defense Intelligence." We explain below why the work was not "intelligence functions." But even accepting that characterization for discussion purposes only, the Draft Report in this respect contradicts its own admission that the Secretary "has the latitude to interchange roles and responsibilities" in managing the Department so long as no statutes or executive orders are violated. The Draft Report fails to explain why it was inappropriate for the Secretary and Deputy Secretary to exercise that latitude in this case. If the OIG believes the Deputy inappropriately used his latitude to assign this work to non-IC staff members, and the Secretary and Deputy misused their latitude to direct that those staff members share this work outside the Department, it is incumbent on the OIG to say so directly and to explain why it holds this opinion. It is not sufficient for the OIG simply to fault "OUSD(P)" with engaging in "inappropriate" behavior because two Policy staffers did as told by the Secretary and Deputy, and let it go at that.

**B. DIA's DI Policy Nos. 004 and 005 Do Not Apply to Non-IC Offices Directed by Senior DoD Leaders to Critique Intelligence Community Work (U)**

(U) The Draft Report cites Policy Nos. 004 and 005 developed by DIA's Directorate for Analysis and Production. These internal policies set out guidelines and procedures for DIA analysts who wish to propose, respectively, an alternative analysis or

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an alternative judgment when they believe that they cannot reach a consensus with other intelligence analysts on a particular issue. The Draft Report erroneously characterizes these internal DI policies as "the standard process of coordinating to obtain consensus from the Intelligence Community" that the DIA detailees to OUSD(P) should have used in this case (page 8). The Draft Report also erroneously describes these internal policies as the "existing procedures" (page 14) that OUSD(P) should use to "request that an Alternative Judgment be produced by Defense Intelligence" if OUSD(P) believes that the IC is incorrect on a given matter (page 13).

**1. The Internal DIA Policies Do Not Apply to DIA Members While Detailed to Policy Positions Outside DIA's Chain of Command (U)**

(U) The texts of these internal DI policies are reproduced in full at Appendix A to these comments. There is nothing in either of them to support the idea that they continue to apply to DIA analysts who are detailed to policy positions and who are tasked to do independent assessments for the express purpose of providing a non-IC critique, or review, of IC views. It is obvious from the texts that they only apply to analysts working within the DIA chain of command and proposing alternative assessments or judgments, in an intelligence capacity, within that chain of command. DI Policy No. 005, for example, provides that "the analyst forwards ... through the immediate Supervisor/Office Senior Intelligence Officer (SIO) to the Group SIO/Research Director (RD). The Supervisors/Office SIOs review ... for format and completeness. The Group SIO/RD reviews ... to ensure it accurately describes the competing analyses," etc. This process has no relevance to a situation such as the present, where the Deputy Secretary specifically directed that he wanted an alternative look at the IC's work from outside the IC and was not seeking to develop a consensus.

**2. The Internal DIA Policies Contain No Procedure for an IC Customer to Obtain an Alternative IC Judgment, Which in any Case is not What the DSD Sought Here (U)**

(U) Neither of these internal DI policies contains any procedure for an IC customer, such as OUSD(P), to request an "alternative judgment" from the DIA if the customer considers an existing IC judgment to be incorrect. While the Draft Report inexplicably allows that OUSD(P) "is not ... required to await final adjudication or production of an Alternative Judgment from DIA" (page 13), thus raising the question of why the "Alternative Judgment" should be sought at all, the fact remains that these internal DI policies do not provide for a customer to make such a request. One will search the texts in vain for even the slightest hint of such a procedure.

(U) The very notion that a customer should ask the IC for an alternative intelligence judgment if it dislikes the judgment already given is bizarre on its face. Such a request would inevitably bring down a firestorm of criticism that the customer was attempting to "politicize" intelligence or "pressure" the intelligence analysts into

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changing their assessments. In any event, the Deputy Secretary in the present matter expressed no wish for an "alternative judgment" from the IC, which is undoubtedly why the staffers responding to his tasking did not seek one. And he expressly directed that the objective of the work was not to develop a consensus product but rather to see how competing arguments might stand up in an exchange of views with the IC.

**3. The Internal DIA Policies Were Not Coordinated or Published as Would Have Been Required if Intended to Apply Outside DIA (U)**

(U) There is no basis for asserting that the DI internal policies are applicable to DoD as a whole or to OUSD(P) in particular. To the contrary, these policies have not been published; they have not been disseminated to OUSD(P) or, so far as we know, elsewhere in the Department outside DIA; and they have not been presented to OUSD(P) for review or coordination.

(U) Guidance that is intended to have Departmental applicability falls within the requirements of DoD Directive No. 5025.1, "DoD Directives System," July 27, 2000, as reissued July 14, 2004. Section 4.1 of this directive articulates a DoD policy to maintain "a single, streamlined, uniform system governing the preparation, coordination, approval, publication, dissemination, implementation, and internal review of DoD issuances...." Proposed DoD issuances "shall be formally coordinated to solicit the views of the Heads of the DoD Components" (Section 4.4). All DoD issuances "must be coordinated with the General Counsel, DoD, the Inspector General, DoD, and the Director of Administration and Management" (Section 4.4.1). The Heads of DoD Components "shall review and coordinate on proposed DoD issuances relevant to their missions" (Section 5.4).

(U) Nothing of the sort was done with regard to DI Policy Nos. 004 and 005. They have no applicability to OUSD(P). They are not "existing procedures" that OUSD(P) should have, or could have, followed in the present matter. The Draft Report's recommendation that they be followed as "existing procedures" in the future is unfounded and inappropriate.

**C. "Intelligence Activities" Constitute a Process Using All Key Elements of Intelligence Work By Intelligence Agencies (U)**

(U) As the guidance cited by the Draft Report (page 4-5, Appendix H) and other relevant authorities make clear, "Intelligence Activities" involve the entire process by which intelligence agencies turn information into a product that intelligence consumers can use. They do not encompass the type of work reviewed here.

(U) In asserting otherwise, the Report relies primarily on DoD Directive No. 5240.1, "DoD Intelligence Activities, April 25, 1988, and DoD Directive No. 5105.21, "Defense Intelligence Agency (DIA)," February 18, 1997. Of these, only DoD Directive

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No. 5240.1 (Section 3.1) contains a definition of "Intelligence Activities" which is as follows:

"Intelligence activities. The collection, production, and dissemination of foreign intelligence and counterintelligence by DoD intelligence components authorized under reference (b)."

(U) "Reference (b)" is Executive Order 12333, "United States Intelligence Activities," December 4, 1981, Section 3.4(e) of which defines "intelligence activities" as "all activities that agencies within the Intelligence Community are authorized to conduct pursuant to this Order." Section 3.4(f) defines "Intelligence Community and agencies within the Intelligence Community" as "the following agencies or organizations," among which the Office of the Secretary of Defense and the Office of the Under Secretary of Defense do not appear.

(U) DoD Directive No. 5240.1, Section 3.4, similarly defines "DoD intelligence components" as "[a]ll DoD Components conducting intelligence activities, including" a list of named DoD elements among which, again, the Office of the Secretary of Defense and the Office of the Under Secretary of Defense do not appear. In contrast Section 2.1 of DoD Directive No. 5240.1 does define "DoD Components" to include the Office of the Secretary of Defense. Thus the Directive carefully distinguishes "all DoD Components" from "DoD Components conducting intelligence activities." In consequence, the Directive's Section 3.1 definition of "Intelligence Activities" by its terms only encompasses "DoD intelligence components," not "all DoD Components."

(U) The above definitions make clear that "Intelligence Activities" constitute a process that entails collection, production "and" (not "or") dissemination of foreign intelligence or counterintelligence *as conducted by intelligence agencies*, and not assessments or critiques by non-intelligence offices.

(U) Various definitions in Joint Publication 1-02, *Department of Defense Dictionary of Military and Associated Terms* (12 April 2001, as amended through 16 October 2006) ("JP 1-02") also demonstrate that the term "Intelligence Activities" should be understood as a process of actions and operations conducted by the Intelligence Community to produce an intelligence product for consumers. For example, according to JP 1-02:

"intelligence" means "[t]he product resulting from the collection, processing, integration, analysis, evaluation, and interpretation of available information concerning foreign countries or areas" (JP1-02 at 268);

"intelligence process" means "[t]he process by which information is converted into intelligence and made available to users. The process consists of six

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interrelated intelligence operations: planning and direction, collection, processing and exploitation, analysis and production, dissemination and integration, and evaluation and feedback" (JP 1-02 at 270); and

"intelligence community" means "[a]ll departments or agencies of a government that are concerned with intelligence activity, either in an oversight, managerial, support, or participatory role" (JP 1-02 at 269).

(U) None of the above definitions accurately describe the critical assessment of IC information by OSD staff members that is the subject of this review.

**D. Alternative or Critical Assessments of IC Information and IC Judgments by Non-IC Offices Are Not "Intelligence Activities" (U)**

(U) As the above definitions of "Intelligence Activities" and related terms make clear, such activities consist of the entire process of actions and operations conducted by intelligence agencies to produce an intelligence product for consumers. It is incorrect to select one or a few activities that are part of the "intelligence process" and characterize those selected activities as "Intelligence Activities" even when conducted by non-IC policy elements of government.

(U) The definitions of "Intelligence Activities" and related terms do not encompass an alternative or critical analysis, evaluation, interpretation or assessment by a non-IC office, such as OSD or OUSD(P), of information provided by the Intelligence Community. In this context, the "analysis," etc. is merely an independent review by a non-IC organization, or in the present case by several non-IC OSD staffers, of IC information provided by the IC. In conducting this review, the non-IC organization may even exercise independent judgment about the meaning or significance of the intelligence information provided by the IC. This act of independent judgment by the non-IC organization does not constitute "Intelligence Activities" under any of the above definitions or any common-sense understanding.

(U) The mere fact that the "intelligence process" conducted by the Intelligence Community includes but is not limited to "analysis" and "dissemination" does not mean that a policy organization is conducting "Intelligence Activities" if it independently "analyses" intelligence information provided by the IC and then "disseminates" the results of its analysis. To assert such a proposition is akin to asserting that "cows have four legs and give milk, therefore, all four-legged animals that give milk are cows."

(U) The Draft Report cites the definition of "Intelligence Production" found in DoD Directive No. 5105.21 in an effort to characterize OUSD(P) activities as "Intelligence Activities." But the actual definition does not support this argument.

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(U) The term "Intelligence Production" as defined in Directive No. 5105.21 does not apply to any activities under review here. Paragraph E2.1.3 of the Directive provides:

"Intelligence Production. The validation, correlation, analysis, and interpretation of information on foreign intelligence and counterintelligence topics, including the use of automated data bases and the presentation and dissemination of the results."

This definition, just as the related definitions discussed above, makes clear that "Intelligence Production" is the full process of validation, correlation, analysis, interpretation, presentation and dissemination. It is a distortion of the definition to assert that a single activity, such as analysis or interpretation, constitutes "Intelligence Production."

(U) In the present matter, the draft briefing and work done to prepare it were nothing more than a critical review of intelligence information already produced by the IC. The work presented a fresh assessment of how that information might be understood if certain *a priori* assumptions about lack of cooperation between secularists and fundamentalists were avoided. At the very least the work under review involved no validation or correlation, as those tasks had already been done by the IC as part of its "Intelligence Production." The attempt to stretch the definition of "Intelligence Production" to include the critique of IC reports and products by a non-IC office simply does not work.

**E. OUSD(P) Did Not Produce or Disseminate "Intelligence Assessments" or "Intelligence Analysis" (U)**

(U) The Draft Report asserts (e.g., page 4) that the draft briefing on the relationship between Iraq and al-Qaida and the July 25, 2002 memo preliminary to the briefing were "OUSD(P)" "alternative intelligence assessments," and that this work "evolved into Intelligence Analysis" (page 12). The work reviewed was not "intelligence assessments" or "Intelligence Analysis" under any reasonable understanding of those terms.

(U) Neither the Draft Report, nor any of the authorities mentioned there or here, defines the term "intelligence assessment." Nor do they define the term "Intelligence Analysis" despite the Draft Report's use of capital letters. But extrapolating from the intelligence-related definitions discussed above, it seems reasonable to suggest that "intelligence assessments" and "Intelligence Analysis" are assessments and analysis by intelligence agencies about the meaning and significance of information acquired by them during the six-part "intelligence process" of "planning and direction, collection, processing and exploitation, analysis and production, dissemination and integration, and evaluation and feedback" (JP 1-02 at 270). It follows that "intelligence assessments" and "Intelligence Analysis" are disseminated by intelligence agencies and are clearly

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identified as the "assessment" or "analysis" of the issuing agency or intelligence community. Thus, intelligence consumers will know that they have the "assessment" or "analysis" of that agency or community on the matter at hand as opposed to someone else's assessment or analysis.

(U) Nothing of this sort took place in preparing and presenting the draft briefing in question. As Part IV (Facts) above explains in detail, the July 25, 2002 memo was an internal document done in preparation for a briefing that the Deputy Secretary had directed his Special Assistant and two DIA detailees working in the Policy organization to put together for the Secretary of Defense. The memo did not present any "intelligence assessment" or "intelligence finding" or anything that could reasonably be characterized in that way. The memo did argue that there was a case to support an "Intelligence Finding" that Iraq had been complicit in supporting al-Qaida terrorist activities. But this obviously was a suggestion that the Intelligence Community should make such an "Intelligence Finding," since neither the memo's author nor OUSD(P), the Deputy Secretary or the Secretary were capable of making an "Intelligence Finding."

(U) As Part IV above also explains, the draft briefing likewise contained no "intelligence assessments," "Intelligence Analysis" or anything that could reasonably be so described. Each version of the draft briefing was marked as "draft" or "draft working papers." Each time the briefing was given, it was well known to all in attendance that the briefers were not speaking for the Intelligence Community but, to the contrary, were presenting an alternative or critical analysis of information provided by the Intelligence Community. The analysis intentionally took a different approach from some of the IC analysis, because of the Deputy Secretary's direction to avoid the *a priori* assumption that secular Baathists and Islamic fundamentalists would never cooperate and to examine how the intelligence information might be understood in the absence of that assumption. It would be preposterous to suggest that the draft briefing was an effort to usurp the role of the IC, or that anyone was misled into believing that the draft briefing purported to express "intelligence assessments" or "Intelligence Analysis" on behalf of the IC or anyone else.

(U) Moreover, whatever the July 25, 2002 memo and the draft briefing may have been, they most certainly were not "OUSD(P)" assessments or conclusions, as the Draft Report repeatedly asserts. As Part IV (Facts) discusses in detail, these work products were never described or presented as an approved OUSD(P) or OSD position, all versions of the briefing were marked "draft" or "draft working papers," the USDP introduced the draft briefing to the DCI stating that it was merely one way of looking at the underlying intelligence and not necessarily the correct way, and the draft briefing itself was done at the Deputy Secretary's direction. The draft briefing and work leading to it were not initiated by "OUSD(P)," notwithstanding that two of the three authors happened at the time to be working in the Policy organization on detail from DIA.

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(U) The Draft Report seems to argue that the two DIA detailees continued to function as intelligence analysts even though detailed to OUSD(P) and therefore their activities in OUSD(P) "constituted intelligence analysis and in at least several cases, intelligence production, which was not one of USD(P)'s specified functions in DoD Directive 5111.1" (page 6). This contention cannot withstand scrutiny. If it were correct, OSUD(P) could never obtain intelligence analysts on detail from DIA without committing "inappropriate" "Intelligence Activities." How to characterize work done by detailees depends on the substance of what they actually do while detailees, not on the nature of their duties in their home agencies. As demonstrated above, the work in question here did not fall within any of the definitions of "Intelligence Activities" and did not constitute "intelligence analysis."

(U) The Draft Report also seeks to support its claim that OUSD(P) produced "alternative intelligence assessments" by referring to "confirmation" in interviews that the DIA detailees "conducted independent intelligence analysis resulting in analytic conclusions and products" (page 6). According to the contemporaneous written record, however, at least one of the DIA detailees said that "[a]t no point did I prepare an intelligence estimate or publish anything I had written" during her involvement in the work under review. In any event, the terminology that individuals in informal interviews may have used or acquiesced to, advertently or inadvertently, cannot alter the nature of the work they actually did or did not do. In this case they did not produce or disseminate "intelligence assessments" or "Intelligence Analysis" on behalf of OUSD(P) or anyone else.

**F. The Relevant Orders and Directives Describe Intelligence Roles and Activities, They Do Not Proscribe Policy Activities (U)**

(U) The Report refers to definitions from DoD guidance dealing with intelligence agencies and intelligence activities. It endeavors to apply these definitions to policy activities undertaken for policy purposes within OSD. In so doing, the Draft Report transforms these definitions into restrictions on what policy offices may appropriately do.

(U) There is no authority to support the view that definitions describing the activities of intelligence agencies also apply to policy offices, or constitute limitations or prohibitions on the activities that policy offices may appropriately conduct. To demonstrate the fallacy of that thinking, one need only return to the relevant definitions.

(U) As discussed above, DoD Directive No. 5240.1 (Section 3.1) defines "Intelligence Activities" as:

"The collection, production, and dissemination of foreign intelligence and counterintelligence by DoD intelligence components authorized under [Executive Order 12333]."

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(U) Executive Order 12333, "United States Intelligence Activities," December 4, 1981, Section 3.4(e), defines "intelligence activities" as "all activities that agencies within the Intelligence Community are authorized to conduct pursuant to this Order." Section 3.4(f) defines "Intelligence Community and agencies within the Intelligence Community" as "the following agencies or organizations," among which, as noted above, OSD and OUSD(P) do not appear.

(U) DoD Directive No. 5240.1, Section 3.4, similarly defines "DoD intelligence components" as "[a]ll DoD Components conducting intelligence activities, including" a list of named DoD elements among which, again as noted above, OSD and OUSD(P) do not appear. But Section 2.1 of DoD Directive No. 5240.1 does define "DoD Components" to include the Office of the Secretary of Defense. Thus, as also noted above, the Directive distinguishes "all DoD Components" from "DoD Components conducting intelligence activities." In consequence, the Directive's Section 3.1 definition of "Intelligence Activities" by its terms only encompasses "DoD intelligence components," not "all DoD Components," as discussed above.

(U) The above definitions make two things clear about "Intelligence Activities":

1. They constitute a process that entails collection, production "and" (not "or") dissemination of foreign intelligence or counterintelligence, and
2. They are activities *conducted by intelligence agencies*, and not policy or other assessments or critiques by non-intelligence offices, even if these activities have similarities with "intelligence activities" performed by intelligence "agencies" or "components."

(U) The Draft Report in effect expands the definition of "Intelligence Activities" contained in Directive 5240.1, Section 3.1, by dropping the restrictive clause "by DoD intelligence components authorized under [E. O. 12333]." In other words, by asserting that OUSD(P) (admittedly not a "DoD intelligence component") engaged in "Intelligence Activities," the Draft Report obviously regards those activities as something that *can* be done by an entity that is not an "intelligence component." The Draft Report thus appears to define "Intelligence Activities" as "the collection, production, and dissemination of foreign intelligence and counterintelligence" simply, regardless of by whom or what.

(U) This re-definition not only is incorrect on its face but in practice would lead to absurd results, as reference to the definition of "foreign intelligence" demonstrates. The term "foreign intelligence" appears in the definition of "Intelligence Activities," i.e., the "collection, production, and dissemination of foreign intelligence and counterintelligence by DoD intelligence components authorized under" E.O. 12333. Both E.O. 12333 (Section 3.4(d)) and DoD Directive 5240.1 (Section 3.2) define "Foreign intelligence" as "information relating to the capabilities, intentions and activities of foreign powers,

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organizations or persons, but not including counterintelligence except for information on international terrorist activities."

(U) This definition of "foreign intelligence" is quite broad. The *New York Times*, for example, routinely engages in the collection (gathering and reporting), production (writing and editing) and dissemination (publication) of information relating to the "capabilities, intentions and activities of foreign powers, organizations or persons." In the same vein, State Department Foreign Service officers, stationed both abroad and in Washington, constantly, through their contacts with foreign officials and others, learn about the "capabilities, intentions, and activities of foreign powers, organizations, or persons"; they report this information, which is used by the regional and other bureaus of the State Department to produce memoranda containing assessments and policy recommendations, which, in turn, are disseminated to officials throughout the government. Thus, if one were to accept the Draft Report's modification of the definition of "intelligence activities," one would have to conclude that the *New York Times* and State Department Foreign Service officers routinely engage in "intelligence activities."

(U) Similarly, OUSD(P) routinely deals with "information relating to the capabilities, intentions, and activities of foreign powers, organizations, or persons." For example:

- (U) Policy personnel routinely meet with foreign counterparts, at both the leadership and desk officer levels. These encounters occur at international meetings and conferences, formal defense bi-lateral consultations, and formal or informal one-on-one meetings. During such meetings, policy personnel acquire "foreign intelligence" information which is typically recorded in Memoranda for the Record, e-mails, etc.
- (U) In addition, policy personnel seek out other sources of information about "the capabilities, intentions, and activities of foreign powers, organizations, or persons," for example, by attending academic or other conferences, or by talking to knowledgeable academics or other non-government experts on relevant subjects.
- (U) On the basis of this information and other sources (including "open source" intelligence, diplomatic reporting, as well as intelligence reports), Policy personnel prepare memoranda containing their analyses of foreign situations and associated policy recommendations. Almost all the work of regional offices, and much of the work of functional offices, deals with "the capabilities, intentions, and activities of foreign powers, organizations, or persons."
- (U) These memoranda are disseminated within OUSD(P), to the Joint Staff and other DoD components, to the Defense Department leadership and to interagency colleagues.

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(U) If this and similar activity were to be considered "Intelligence Activities," then attempting to follow the Draft Report's recommendation that "internal controls" be established to ensure that "Intelligence Activities" are not performed within OUSD(P) would be tantamount to shutting down OUSD(P) altogether.

(U) In fact, the guidance and authorities discussed here and in the Draft Report impose no restrictions on activities involving analyses, evaluations, assessments, critical reviews, or even alternative judgments by non-IC offices, not even if the subject of such analyses, etc. is intelligence reporting or intelligence products furnished by the IC, nor even if such analyses, etc. lead to judgments about intelligence information furnished by the IC that differ from the IC's judgments about the same information.

(U) Where the relevant guidance intends to prohibit or regulate activities by non-IC offices, it does so in clear terms, and in only two instances: the prohibition on engaging or conspiring to engage in assassination (E.O. 12333, Section 2.11; DoD Directive No. 5240.1, Section 4.4); and the prohibition on all DoD Components from conducting or providing support for the conduct of special activities except as the Directive otherwise provides (DoD Directive No. 5240.1 Section 4.3). Other than these two cases, the relevant guidance does not proscribe any activities by non-IC offices. In particular it lacks any limitation on analyses or assessments by Policy offices of Intelligence Community information and products. There is no basis for characterizing the admittedly lawful and authorized work under review as "inappropriate."

#### VI. OUSD(P) NONCONCURRENCE (U)

##### A. With the Findings of the Draft Report (U)

(U) For all the reasons stated in these comments, OUSD(P) does not concur in any finding expressed in the Draft Report except the finding that the activities reviewed were lawful and authorized, and specifically **does not concur** in incorrect assertions (e.g., at pages 4 and 14):

- (U) That OUSD(P) "developed, produced and then disseminated alternative intelligence assessments on the Iraq and al-Qaida relationship, which were inconsistent with the consensus of the Intelligence Community, to senior decision-makers";
- (U) That the actions reviewed were allegedly "OUSD(P)" activities;
- (U) That the actions reviewed were allegedly "inappropriate given that the products did not clearly show the variance with the consensus of the Intelligence Community and were, in some cases, shown as intelligence products";

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- (U) That there was an alleged “expanded role and mission of the OUSD(P) from Defense Policy formulation to alternative intelligence analysis and dissemination”;
- (U) That anything inappropriate occurred because “OUSD(P) lacked the management controls to ensure that Intelligence Activities were not performed, and that when Policy disagreed with the Intelligence Community, products produced by Policy clearly showed the variance with the Intelligence Community”;
- (U) That OUSD(P) had a responsibility to, but “did not provide ‘the most accurate analysis of intelligence’ to senior decision-makers”; and
- (U) That any OUSD(P) activities, in response to requests by the Deputy Secretary, the Secretary of Defense or otherwise, constituted “Intelligence Activities.”

**B. With the Recommendations of the Draft Report (U)**

(U) For all the reasons stated in these comments, OUSD(P) does not concur in any recommendation expressed in the Draft Report, and specifically **does not concur** in the recommendations (page 14) that the Under Secretary of Defense for Policy:

“a. Establish internal controls so that ‘Intelligence Activities’ are not performed within the Office of the Under Secretary of Defense for Policy” – as OUSD(P) did not perform any “Intelligence Activities” and no such “internal controls” are needed.

“b. If in its policy formulation role, there is disagreement with the Intelligence Community consensus:

“(1.) Use existing procedures within the Intelligence Community to request an Alternative Judgment” – as existing IC procedures for producing “alternative judgments” do not apply to non-IC offices and are irrelevant to critiques by policy offices of IC work.

“(2.) Clearly articulate in policy products the Intelligence Community consensus and the basis for disagreement or variance from the Intelligence Community consensus” – as such a requirement would inappropriately constrain policy work by requiring policy offices to vet every policy product with the IC in order to determine whether or not it disagreed or varied with an IC “consensus” and – if it did -- to articulate the IC “consensus” in the policy product.

(U) Accordingly, OUSD(P) has taken no actions, and plans none, in response to the proposed recommendations.

44

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## VII. CONCLUSION (U)

(U) Bipartisan reports and studies by various commissions and congressional committees since the 9/11 attacks have stressed the need for hard questions and alternative thinking on the part of the Intelligence and Policy Communities alike. The motivation behind such observations has been a broadly held consensus that the Intelligence Community suffered major failures in its assessments of several key threats and issues before both the 9/11 attacks and the recent Iraq war. As the WMD Commission wrote, to quote just one such report:

"We conclude that good-faith efforts by intelligence consumers to understand the bases for analytic judgments ... are entirely legitimate. This is the case even if policymakers raise questions because they do not like the conclusions or are seeking evidence to support policy preferences. Those who must use intelligence are entitled to insist that they be fully informed as to both the evidence and the analysis."<sup>53</sup>

(U) The conclusions in the Draft Report reflect a disturbing departure from the trend in all these reports and studies to encourage the type of alternative thinking that motivated the work reviewed in this Project. By mischaracterizing that work as inappropriate "intelligence assessments," the Draft Report fundamentally misinterprets what the work actually was – namely, a critical assessment by OSD, for policy purposes, of IC reporting and finished IC products on contacts between Iraq and al-Qaida. Such conclusions, if sustained, would have a dampening effect on future initiatives challenging intelligence assessments. The facts do not justify such conclusions.

(U) The work found "inappropriate" was an exercise in alternative thinking that the second most senior civilian in this Department directed his subordinates to prepare and brief to the most senior official of this Department. The latter, after receiving the draft briefing, directed that it be shared with the DCI. When the Deputy National Security Advisor requested the briefing, the Deputy Secretary's office directed that it be given to him. These are the activities that the Draft Report characterizes as "inappropriate," because it considers them to be "production" and "dissemination" of an "alternative intelligence assessment" contradicting assessments of the "chartered-intelligence community." If the OIG actually believes that it was inappropriate for the Deputy Secretary of Defense to have some non-IC OSD staff members do a critical assessment of some IC work on a subject of major significance for national security, inappropriate for the Secretary of Defense to share the OSD work with the DCI, and inappropriate for the Deputy Secretary to share the work with the Deputy National Security Advisor when requested by the latter, the OIG should say so directly instead of

<sup>53</sup> (U) *Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction, Report to the President of the United States* (31 March 2005), p. 189.

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Final Report  
Reference

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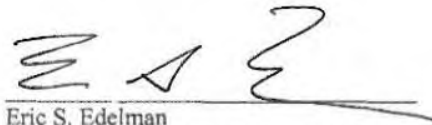
~~SECRET//NOFORN~~

finding fault with subordinate OSD offices and staff members who did as they were instructed to do.

(U) The proposed recommendations would put a straightjacket on not only the type of work reviewed here but also the large majority of work routinely done in OSD, particularly in OUSD(P).

- (U) By having OUSD(P) to articulate the Intelligence Community consensus in any policy products that may vary from an IC "consensus" and the basis for such variance, the proposed recommendations would inappropriately constrain policy work. They would require policy offices to vet every policy recommendation or analysis with the IC in order to determine whether or not it disagreed or varied with an IC "consensus." The proposed recommendations would also burden policy offices with a requirement to articulate the IC "consensus" when the IC itself should do so.
- (U) By having OUSD(P) to seek an "Alternative Judgment" from the IC whenever any OUSD(P) product disagreed with IC views, the proposed recommendations would seriously constrain and deter OUSD(P) personnel from articulating alternative views about the same information on which the IC's assessments were based.
- (U) By mischaracterizing alternative reviews of IC work as "Intelligence Activities," the conclusions of the Draft Report would chill the vigorous debate and hard questioning that most observers have recognized as necessary to avoid the types of intelligence failures experienced in the recent past.

(U) We strongly urge a reconsideration and major revision of the Draft Report and the conclusions expressed therein.



Eric S. Edelman  
Under Secretary of Defense for Policy

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APPENDIX A: DI POLICY NOS. 004 AND 005

DEC-22-2006 11:35  
Alternative Analysis Policy

DOD IG INTEL

703 604 0045 P.002  
Page 1 of 1



*Directorate for Analysis and Production*  
**Policy Statement**

DI Policy No: 004 - Date: 13 July 2001

Subject: Alternative Analysis Policy

1. To remain relevant, intelligence analysis must present clear conclusions that are actionable by the customer. To be comprehensive, intelligence analysis must bring to bear the best collaborative effort of the broadest set of expertise. These competing imperatives pose a dynamic, continuing challenge to intelligence analysis.
2. The normal process of coordination demands that analysts work with others possessing relevant expertise to develop consensus analysis. Often, this process produces compromises employing such techniques as numerical ranges (10-30 missiles) or ambiguous word choices (possible, probable, may, could). Where compromises represent simple shades of difference, this outcome is acceptable; where they mask genuine analytic alternatives, they do the customer a disservice.
3. This alternative analysis policy encourages analysts to avoid those compromises which pass analytic uncertainty along to the customer in the guise of authoritative analysis. Analysis must clearly and concisely present what they know, what they do not know (and therefore assume), and then what they think (analysis). Genuine analytic differences, based on different evidence, assumptions, or methodologies, must be brought to the customer's attention in a plain and succinct manner. Our customers understand that our work is fraught with uncertainty, and they appreciate our nuanced attempts to explain what our differences are, and why they occur. Analysts are encouraged to resolve analytic differences by presenting alternative analysis within their products.
4. The need to promote sound alternative analysis does not absolve the analyst from the requirement to collaborate. Rather, it frees the analyst from the need to resort to compromise just to reach a conclusion.

///SIGNED///  
CARYN A. WAGNER  
Deputy Director for  
Analysis and  
Production

<http://www.dia.ic.gov/admin/di/policies/policy004.html>

12/22/2006

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Alternative Judgments Policy703 604 0045 P.003  
Page 1 of 2

## Directorate for Analysis and Production Policy Statement

DI Policy No: 005 - Date: 05 June, 2001

SUBJECT: Alternative Judgments Policy

1. Curiosity and integrity are the hallmarks of good analysis. The best analysts constantly strive to explain the apparently inexplicable, while submitting their work to the rigorous scrutiny of their peers. The principal goal of intelligence analysis is to provide our customers with the most expert, fused, and multi-disciplinary judgements possible. Intellectual honesty and analytic rigor require processes that enable the analyst to present ideas and concepts which run counter to the prevailing wisdom or challenge the consensus. This policy memo establishes a process for promulgating alternative judgments, consonant with the rights and responsibilities of all analysts in their obligation to provide the best possible analysis.

2. The first and preferred method for incorporating an analytic alternative is through the standard process of coordination. Analysts are expected to marshal their facts, build coherent arguments, and defend those arguments while coordinating with other experts across the Intelligence Community. In the vast majority of cases, analytic judgments either stand or fall on the merits of their evidentiary base, intrinsic logic and quality. In those rare instances where analysts build a strong case, but cannot achieve consensus support for their analysis, an alternative judgment is justified.

3. Even with the existing venues for collaboration, there remain opportunities for the exclusion of analytic alternatives. Due to bureaucratic realities, the demands of time-sensitive tasks, or the unwillingness to accept contrary opinions, sound alternative judgments may be lost to the customer. To ensure there is an institutional court-of-last-resort for such analysis, this policy memo establishes the following procedure for raising alternative analytic judgments and giving them due consideration:

- Analysts who have presented analytic judgments through normal coordination, but whose judgments have been rebuffed, can produce an Alternative Judgment (AJ) to inform the senior leadership. The purpose of the AJ is to provide visibility to the senior leadership of an alternative judgment. Analysts who produce an AJ do so secure in the knowledge that they have improved the prevailing analysis and reinforced the collaborative process.
- The analyst has several responsibilities in the decision to produce an AJ. First the analyst must permit the coordination process to play out; an AJ may not be used to circumvent normal coordination. Second, the AJ must dispassionately (and succinctly) explain both the prevailing judgment and the alternative, without prejudice to the former. Finally, the analyst must display trust in the senior leadership, both to give submitted AJs due consideration for further dissemination, and to protect the analyst's best interests once they have produced an AJ.
- The AJ must adhere to the stated format (Enclosure 1). This format forces the analyst to focus on the substance of the prevailing and alternative judgments, while avoiding the emotional or

<http://www.dia.ic.gov/admin/di/policies/policy/005.html>

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Alternative Judgments Policy

703 604 0045 P.004  
Page 2 of 2

bureaucratic conditions which engendered the need for an AJ in the first place. In the end, the AJ is all about the analysis. Upon completing the AJ, the analyst forwards it through the immediate Supervisor/Office Senior Intelligence Officer (SIO) to the Group SIO/Research Director (RD). The Supervisors/Office SIOs review the AJ for format and completeness. The Group SIO/RD reviews the AJ to ensure it accurately describes the competing analyses.

- The Group SIO/RD then determines whether to: (1) present the AJ to the Directorate's Senior Analytic Review Board (SARB), or (2) return the AJ as not warranting further dissemination due to insufficient, non-responsive, or unsubstantiated analysis. In the event the Group SIO/RD rejects the AJ, he/she will return it to the analyst providing written explanation for the rejection; he/she will also provide a copy of the AJ and the basis for the rejection to the Directorate Research Director (DI-RD).
- The DI-RD will convene a panel of the Group SIOs/RDs to consider an AJ selected for presentation by the appropriate Group SIO/RD. The SARB will determine whether to (1) return the AJ (due to insufficiency, as above) to the originating analyst, or (2) ratify the AJ for inclusion in all appropriate products. The SARB will work in an expedited manner in order for the AJ to be included in products already in draft. The SARB will recommend a means of dissemination to the DI, who will be the final authority on how an AJ is promulgated.

4. The desired outcome of this alternative judgment process is to produce the highest quality intelligence, while ensuring that critical alternative judgments are considered. The normal collaborative process should resolve most analytic differences well before the creation of an AJ. The specific nature of the AJ format is designed to provide discipline to the process, while providing the senior leadership sufficient information to make an informed decision on the merits of the alternatives. The use of the SIOs/RDs as principal reviewers, and the oversight of the DI-RD, invigorate the senior analytic leadership in the process, while in no way replacing or circumventing the established role of the chain-of-command. The analyst retains the right to submit alternative judgments, reinforced by the knowledge of an established process to ensure fundamental fairness. All of these intended outcomes combine toward the ultimate goal of encouraging analytic rigor.

///SIGNED///  
CARYN A. WAGNER  
Deputy Director for  
Analysis and  
Production

<http://www.dia.ic.gov/admin/di/policies/policy/005.html>

12/22/2006

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Final Report  
Reference~~SECRET//NOFORN~~**APPENDIX B: COMMENTS ON OIG'S ANSWERS TO SENATOR LEVIN**

(U) Q. 1. As explained in our comments, it is incorrect to attribute the briefing in question to "the OUSD(P)." It is also incorrect to characterize it as an "intelligence analysis."

(U) Q. 2. The Draft Report ignores the October 2002 letter from DCI Tenet to Chairman Graham of the Senate Select Committee on Intelligence and other DCI statements to Congress, as discussed in our comments. The Draft Report hence cannot, and should not purport to, judge the extent to which the IC views as expressed in that letter (which says, *inter alia*, that "we have solid reporting of senior level contacts between Iraq and al-Qa'ida going back a decade" and "credible information indicates that Iraq and al-Qa'ida have discussed safe haven and reciprocal non-aggression") were or were not compatible with the view that there was a "mature, symbiotic" relationship between Iraq and al-Qa'ida." (Note that the briefing speaks of a "mature, symbiotic *relationship*" and not of the "mature, symbiotic *cooperation*" attributed to it in this answer (emphasis supplied).)

- (U) It is misleading to say, in the second paragraph of this answer, that the CIA "later dismissed the alleged" Atta meeting, as if the CIA's later view rather than its contemporaneous view is relevant to this question. During the relevant period in 2002, the CIA never went so far as to "dismiss" the alleged meeting.
- (U) The final sentence of the second paragraph of this answer ("Within the OUSD(P), however, the different conclusions [i.e., the alleged "higher degree of cooperation"] were 'entirely favored' over the Intelligence Community's views") has no basis within the Draft Report or otherwise.
- (U) It is misleading, in the third paragraph of this answer, to quote the August 2002 CIA report stating that the CIA "could not document any joint operational activity between Iraq and al-Qaida." None of the work under review asserted that there had been any such activity.

(U) Q. 3. The Draft Report contains no analysis of the "underlying intelligence." Thus, the assertion that the "alternative intelligence analysis that OUSD(P) produced" was only partially supported by it is itself not supported.

- (U) There is no basis for asserting that the view that there was a "mature, symbiotic relationship" between Iraq and al-Qa'ida "was based primarily on the alleged 8-9 April 2001 meeting in Prague between Mohammed Atta and al-Ani." In fact, that view was based on a series of intelligence reports.

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- (S/NF) The Draft Report's answer to this question [REDACTED] can have no bearing on whether statements made in 2002 were or were not supported by the (then available) underlying intelligence.

(U) Q. 6. It is misleading to describe the briefing to the Deputy Assistant to the President for National Security Affairs (which the Vice President's Chief of Staff attended, at least in part) as a "briefing to the Office of the Vice President." It is tendentious to describe the Atta slide as "previously unseen," as the slide did not previously exist. It is incorrect to assert, as this answer does, that this new slide presented the alleged Atta meeting "as fact" (page 27). Nowhere does the slide describe the meeting as "fact." To the contrary, the slide repeatedly uses phrases such as "Czech service reports that Atta visited ...," "despite press reports of conflicting information, Czech Interior Minister ... stands by previous Czech ... reporting," "Atta reportedly held meetings..." and "Atta reportedly arrives in Prague...."

Page 30  
Revised

(U) Q. 7. There is no evidence that the authors of the Draft Report reviewed the available intelligence on the relevant issues. Thus, it would appear that they are not in a position to assert that the briefing in question was or was not supported by it.

- (U) It is incorrect to say that the differences between the three versions "altered the overall message presented to each audience." The Draft Report does not discuss the "overall message" of each version of the briefing and does not analyze how the "overall message" of one version relates to the "overall message" of another version.

Page 31  
Revised

(U) Q. 8. The Draft Report endorses the questioner's view that the "fundamental problems" slide "undercut" the IC. The Draft Report provides no evidence that the IC was in fact "undercut" or harmed in any way<sup>54</sup>, no explanation how this would have happened, or what effects it might have had, if any. The implication is that the IC may not be criticized at all.

(U) Q. 9. The Draft Report's affirmative answer to this question is not supported by the evidence provided, which nowhere reviews the "available intelligence."

- The Draft Report does not compare the briefing's statements with the statements by DCI Tenet in his October 7, 2002, letter to Senator Graham and other statements to Congress. For example, DCI Tenet said that "We have solid reporting of senior level contacts between Iraq and al-Qaida going back a decade."

<sup>54</sup> (U) The relevant dictionary definition of "undercut" is "to undermine or destroy the force, value or effectiveness of" (Webster's Ninth New Collegiate Dictionary).

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b(3)

Final Report  
Reference

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(U) Q. 10. The last sentence of the first paragraph of this answer ("The CIA was not given advance notice or an opportunity to respond to the critique because the OSD considered it an internal OSD product") implies that somehow the OSD view was questionable or incorrect. However, the product indisputably was an internal OSD product, and there is no reason why CIA should have been informed of it, any more than OUSD(P) was informed of the DIA memos of August 9 and 14, 2002, discussed on page 9 of this Draft Report.

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# TAB B



UNCLASSIFIED

SECURITY AND DECLASSIFICATION REVIEW BY OUSD(P) OF  
20 DECEMBER 2006 DRAFT OF A PROPOSED REPORT  
BY THE DOD OFFICE OF INSPECTOR GENERAL

REVIEW OF PRE-IRAQI WAR ACTIVITIES OF THE OFFICE OF THE  
UNDER SECRETARY OF DEFENSE FOR POLICY (U)

PROJECT NO. D2006DINT01-0077.000<sup>1</sup>

January 16, 2007

In response to the OIG's request that OUSD(P) conduct a security review of the above Draft Report as well as a declassification review of the information presented, below are OUSD(P)'s recommendations with respect to information that originated outside of OUSD(P). Information for which OUSD(P) is the Original Classification Authority has been declassified by the Under Secretary of Defense for Policy (USDP), as indicated below:

p. 2, paras. 1, 2, 3, 4 and 5: declassified by USDP

p. 3, para. 1: declassified by USDP

p. 5, para. 3: declassified by USDP

p. 6, paras. 1, 2 and 3: declassified by USDP

p. 6, para. 4: declassify only with IC concurrence

p. 7, paras. 1, 2, 3 and 4: declassify only with IC concurrence

p. 8, para. 3: declassified by USDP

p. 9, para. 1: declassify only with IC concurrence

p. 9, para. 3: declassified by USDP

p. 10, paras. 1, 2 and 3: declassify only with IC concurrence

<sup>1</sup> Paragraph numbers refer to *full* paragraphs in the Draft Report. Thus, p. 10, para. 1 refers to the first full paragraph on page 10, not to the concluding part of the paragraph that began on the bottom of page 9.

UNCLASSIFIED

UNCLASSIFIED

- p. 12, para. 2: declassify only with DSD concurrence
- p. 12, paras. 3, 4 and 5: declassified by USDP
- p. 25, para. 6: declassify only with IC concurrence
- p. 26, paras. 2 and 4: declassify only with IC concurrence
- p. 29, para. 3: declassify only with IC concurrence
- p. 30, para. 3: declassified by USDP
- p. 30, paras. 4 and 5: declassify only with IC concurrence
- p. 31, para. 1: declassify only with IC concurrence

## Defense Intelligence Agency (U)



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DEFENSE INTELLIGENCE AGENCY

WASHINGTON, D.C. 20340-5100



JAN 19 2007

S-0017/DR

To: Office of the Deputy Inspector General for Intelligence  
Inspector General of the Department of Defense  
400 Army Navy Drive, Room 703  
Arlington, VA 22202-4704

Subject: (U) Pre-Iraq War Activities of the Office of the Under Secretary of Defense for Policy

Reference: (U) DoD IG Draft Proposed Report, Review of Pre-Iraq War Activities of the Office of the Under Secretary of Defense for Policy, Project No. D2006DINT01-0077.000, dated 20 Dec 2006

1. (U) The Defense Intelligence Agency (DIA) reviewed the Department of Defense (DoD) Inspector General's (IG) proposed report on the subject topic. The following errors, omissions, and observations are provided for your consideration.

2. (U) DIA recommends the following changes to the referenced report:

a. (U) General Comment. A typo appears in the title of JITF-CT (Joint Intelligence Task Force - Combating Terrorism) in several passages. Globally substitute the term "Joint Intelligence Task Force - Combating Terrorism" for "Joint Intelligence Task Force 2 Combating Terrorism" throughout the document.

b. (U) General Comment. The draft IG report contains fairly extensive Central Intelligence Agency (CIA) equities. If they have not done so, DoD IG must refer the draft report to CIA for review prior to a final determination of its release.

c. (U) General Comment. DIA's Foreign Dissemination Office found no classified information falling within DIA equities, with one possible exception on pages 23-24 listed below. Most of the DIA-associated portions in the report marked as classified are overtaken by events and are addressed extensively in other official documents, such as the unclassified Senate Select Committee on Intelligence (SSCI) reports and the Iraq Survey Group Final Report to the Director of Central Intelligence. The release of these portions in a published IG report would not constitute "disclosure" reasonably expected to cause identifiable damage to national security. Under the terms of Executive Order 12958 (as amended 23 March 2003), these portions cannot be classified and are, therefore, unclassified.

UPON REMOVAL OF THE ENCLOSURE,  
THIS DOCUMENT BECOMES UNCLASSIFIED.

Derived from: Multiple Sources  
Dissemination: 20320108

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d. (U) Page 4, Guidance section. Consider as an additional policy reference DoD Directive 2000.12 that designates responsibilities for counterterrorism analysis within DoD. The passage below is of particular interest, though it is from a Directive revision dated 18 August 2003. A comparable passage likely exists for the version of the Directive in force from 2001-2003.

(U) "Enclosure 4: E4. 1.1 Establish and operate a Joint Intelligence Task Force for Combating Terrorism (DIA/JITF-CT) to direct collection, exploitation, analysis, fusion, and dissemination of all-source intelligence in support of DoD combating terrorism operations, planning, and policy, including DoD AT requirements. The JITF-CT serves as the single national-level, all-source foreign terrorism intelligence effort within the Department of Defense. The JITF-CT is designated to serve as the central repository of all foreign terrorism-related intelligence for the Department of Defense. Military Department Secretaries and Service Chiefs shall conduct terrorism intelligence activities as a component of or in consonance with the JITF-CT."

e. (U) Page 9, para 1: Delete the word "Senior" of "Senior Intelligence" in lines 1, 3, 10, 16. Rationale: The individual is incorrectly identified. He was a GG-13 Intelligence Analyst.

Deleted

f. (U) Page 9, para 1: Replace the term "Special Assessment" with the word "memo" so that the passage reads, "On August 9, 2002, in a memo, 'JITF-CT Commentary: Iraq and al-Qaida. Making the Case?'" Rationale: A passage incorrectly describes a JITF-CT document as a "Special Assessment," a unique and widely disseminated product in JITF-CT's product line. The document in question was an informal memo for internal consumption, which is only made clear later in the paragraph.

Modified  
Page 9

g. (U) Page 17 cites as references the Phase I and Phase II SSCI reports (classified versions). However, the unclassified versions that were publicly released contemporaneously contain much of the same information.

Page 19

h. (U) Pages 23-24. The report includes a copy of Assistant Secretary of Defense for International Security Affairs (ASD/ISA) memorandum I-02/001165-NESA, dated 24 January 2004. It consists of a series of bullets purportedly listing intelligence related to al-Qaida/Iraq links. There is no sourcing for these bullets. Information in some of the bullets is found in the unclassified versions of the cited SSCI reports. However, the origin of the information in several of them is unknown. Therefore, DIA may not have the authority to make a determination on the classification status of these items. If the DoD IG, the Under Secretary of Defense for Policy, or another element can supply the source of the bullets in question, DIA will be in a position to determine whether bulleted portion is within DIA's power to declassify, if appropriate. Alternately, with the source of the information known, DIA can refer the DoD IG to the correct authority. At this point, DIA lacks the necessary information to make a declassification determination on the memorandum.

Pages 25-26

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Final Report  
Reference

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i. (U) Page 29, para 3: Delete the word "senior" in line 2. Rationale: The individual is incorrectly identified. He was a GG-13 Intelligence Analyst.

3. (U) Attached is a copy of pages 23-24, ASD/ISA memorandum I-02/001165-NESA, dated 24 January 2004, that includes marginal notes indicating the declassification findings regarding each bullet. A "U" in the margin indicates the information is known to be in the unclassified SSCI reports or in another previous official release, or is, by itself, no threat of damage to national security. There should be no DIA objection to release of those portions marked with a marginal "U." A note of "source?" in the margin indicates that the origin of the information is unknown. It is therefore uncertain whether DIA has the authority to make a determination on the classification status of these items.

1 enclosure  
Appendix F, ASD(ISA) Response  
To DEPSECDEF Inquiry (S//NF)



*Timothy C. McNeil*  
Timothy C. McNeil  
Deputy Chief of Staff

~~SECRET//NOFORN//20320108~~



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## Appendix F. ASD(ISA) Response to Deputy Secretary of Defense Inquiry (U)

ASSISTANT SECRETARY OF DEFENSE  
3400 DEFENSE PENTAGON  
WASHINGTON, DC 20301-2400

INFO MEMO

1-02/001165-1NISA  
January 24, 2002 5:03 PM

FOR: <sup>Deputy</sup> SECRETARY OF DEFENSE

FROM: Assistant Secretary of Defense, International Security Affairs  
[REDACTED]

SUBJECT: [REDACTED]

U [REDACTED]

U [REDACTED]

U [REDACTED]

U [REDACTED]

source? [REDACTED]

U [REDACTED]

source? [REDACTED]


U [REDACTED]

source? [REDACTED]

Indirect Links:

- Abu Nidal Organization (ANO) headquartered in Baghdad.
- ANO has following known links to al-Qaida:
  - Bin Laden met in January 1998 with the General Secretary of ANO. Agreed to provide financial assistance in return for unspecified assistance to al-Qaida.

Classified by Multiple Sources  
Exempt: 1.5X100  
Declassify on: N/A



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b(6)

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(U)

## Team Members

The Department of Defense Office of the Deputy Inspector General for Intelligence prepared this report. Personnel of the Department of Defense Office of Inspector General who contributed to the report are listed below.

Sheldon R. Young



b(6)

~~SECRET//NOFORN//MR20320209~~



Inspector General  
Department *of* Defense

~~SECRET//NOFORN//MR20320209~~